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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,721	07/15/2004	Ralf Neuhaus	2002P00503WOUS	4880
7590 08/06/2008				
Siemens Corporation Intellectual Property Department 170 Wood Avenue South Iselin, NJ 08830				
EXAMINER				
ANWARI, MACEEH				
ART UNIT		PAPER NUMBER		
2144				
MAIL DATE		DELIVERY MODE		
08/06/2008		PAPER		

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/501,721
Filing Date: July 15, 2004
Appellant(s): NEUHAUS ET AL.

Janet D. Hood
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 5/21/2008 appealing from the Office action mailed 1/24/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 10-12, 14, 17-19, 22-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Coussement, U.S. Publication No.: 2002/0114278 A1.

Coussement teaches:

Claim 10: An arrangement, comprising: a plurality of network components comprising a monitoring component and a monitored component, each component comprising: a communication unit providing a direct communication to the other components (Figures 1-6 and Abstract & par. 1 & 3 & 28; communication network environment and communication devices) a memory to store an address of the monitoring component when the respective component is being monitored (Figures 1-6 and Abstract & par. 4 & 14 & 16 & 24; storage devices, contact lists and statistics), a processing unit, the processing unit monitors a state of the respective component and sends state information via the communication unit to the stored address when the respective component is

being monitored, and the processing unit transmits a monitoring instruction to the monitored component when the respective component is monitoring (Figures 1-6 and par. 3-4 & 16; processors running CTI software and processors for multimedia communications and reporting), the monitoring instruction comprises the address of the respective monitoring component and sent directly to the monitored component via the communication unit (Figures 1-6 and Abstract & par. 16, 19; contact histories, reporting statistics and multimedia communication and reporting), wherein each component: addressable in a communication network, monitorable by each of the other components via the processing unit, and equipped for monitoring each of the other components via the communication unit (Figures 1-6 and Abstract & par. 16, 19; contact histories, reporting statistics and multimedia communication and reporting).

Claim 11: Wherein the communication network is a packet switched network (Figures 1-6 and par. 8; Internet protocol network telephony).

Claim 12: Wherein a maximum number of addresses stored is predetermined (Figures 1-6 and par. 6 & 14; storage devices and furthermore it is inherent that a storage device will have a maximum number of addresses stored in it).

Claim 14: Wherein the monitoring instruction comprises information about which changes of state are to be sent as state information (Figures 1-6 and Abstract & par. 16, 19 & 82; agent monitoring activity states of IP phones and agent reporting communication and capability states of PC and IP phones).

Claim 17: Wherein the monitoring component uses the information about states

or changes of state for visual indication (Figures 1-6 and Abstract & par. 16, 19, 67 & 82; e-mail, fax and instant messaging applications).

Claim 18: Wherein the monitored component can disable monitoring by individual or all monitoring components (Figures 1-6 and par. 22 & 71; authorizing and authenticating agents).

Claim 19: Wherein, while an acknowledgement to the monitoring component repeats the transmission of a monitoring instruction a stipulated intervals of time (Figures 1-6 and par. 94; periodic polling).

Claim 22: Wherein the information about the transmittability of the monitoring instruction can be used to determine a corresponding state for the component which is to be monitored (The limitation that the instruction "can be used to determine" is intended use and therefore is not being given any patentable weight. Furthermore, paragraph 80 shows that the polling determines whether a component is logged off or not).

Claim 33: Wherein each of the components are voice over IP telephones (Figures 1-6 and par. 28, 35 & 41; VoIP).

Claim 34: Wherein each of the components are telephony clients (Figures 1-6 and par. 8; Internet protocol network telephony).

Claim 35: Wherein each of the components is selected from the group consisting of telephone, telephony client, server, gateway, and gatekeeper (Figures 1-6 and par. 8; Internet protocol network telephony).

Claims 10-12, 14, 17-18, 19, 22 and 33-35 are substantially the same as **claims 23-32** and are therefore rejected using the same rationale applied to **claims 10-12, 14, 17-18, 19, 22 and 33-35**.

Furthermore regarding **claim 30**, wherein the user is provided an input field for inputting a text message to be sent to the monitored component when the monitored component is busy (Figures 1-6 and Abstract & par. 16, 19, 67 & 82; instant messaging applications).

(10) Response to Argument

In substance the appellant argues:

A) That "a memory to store an address of the monitoring component when the respective component is being monitored" is not the same as the memory recited within **Coussement**. The Examiner respectfully disagrees. **Coussement** discloses multiple identifiers (i.e. telephone numbers [addresses]) and multiple storage/memory components that could store the address (par. 5).

B) That **Coussement** does not teach or suggest that each [network] component comprises a processing unit, the claim language itself does not have this limitation. The Examiner has understood that the "each component", referred to in the text of the instant claim(s), to be in fact the *monitoring component* and the *monitored component*. Therefore **Coussement** reads on this limitation because **Coussement** discloses periodically polling [monitoring] of each agent station [the monitoring component and the monitored component] comprising of computer terminals and various forms of servers and processors [processing unit] (Figures 1-6 and par. 4). The appellant

could easily overcome this by amending the claim(s) to recite "each network component comprising:"

C) That **Coussement** does not teach a processing unit that monitors a state of the respective component and sends state information via a communication unit to the stored address when the respective component is being monitored. The Examiner respectfully disagrees. **Coussement** discloses periodically polling [monitoring] of each agent station, comprising of computer terminals and various forms of servers and processors [processing unit], for hardware and software capabilities, in a communication network [communication unit], and providing routing improvements to determine which agents are upgraded and which are not [state or status information] (par. 94).

D) That **Coussement** does not teach a processing unit that transmits a monitoring instruction to the monitored component when the respective component is monitoring. **Coussement** discloses the polling of each agent station, comprising of computer terminals and various forms of servers and processors [processing unit], for hardware and software capabilities and providing routing improvements [instructions] to determine which agents are upgraded and which are not (par. 94).

E) That a contact history, a reporting statistic, a multimedia communication and a reporting does not teach or suggest an instruction sent from the monitoring component to the monitored component let alone that the instruction includes the address of the respective monitoring component. The Examiner respectfully disagrees. **Coussement** entitles his invention as "Capability-Based routing" and this is to be

conducted between agent stations [monitoring component and monitored component] and further discloses providing actual routing improvements [instructions] to determine which agents are upgraded and which are not. These routing improvements [instructions] consist of routing rules, waiting queues, paths and nodes, and these paths/nodes include the address of the respective monitoring components (par. 13 & 94). Furthermore, **Coussement** discloses multiple identifiers [addresses] for a specific call [instructions] from a call center [monitoring component and monitored component] (par. 5).

F) That no all memory will store an address, let alone an address of a monitoring device and moreover have a maximum number of addresses which are predetermined. While the appellant might be right in that not all memory will store addresses let alone an address of a monitoring device, however memory/storage related to routing information/improvements (i.e. routing rules, waiting queues, paths and nodes) will (par. 94); and all memory has inherently a maximum storage capacity.

G) That:

- Periodically polling each agent station for hardware and software capabilities (i.e. information, data, meta-data etc.)
- Providing routing improvements (i.e. routing rules, waiting queues, paths and nodes)
- Determining which agents are upgraded and which are not (i.e. status information)

cannot reasonably be considered the as repeating of the transmission of a monitoring instruction at stipulated intervals of time. The Examiner respectfully disagrees, first in that the routing improvements (comprising of routing rules, waiting queues, paths and nodes) are the set of instructions and secondly because the stipulated intervals of time is the same as the polling being conducted periodically (i.e. during a stipulated interval of time) (par. 94).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

M.A.

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2144

Conferees:

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2144

/John Follansbee/

Supervisory Patent Examiner, Art Unit 2151